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WEYCO GROUP, INC.

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

OAKLEY, INC.,

Plaintiff,

vs.

WEYCO GROUP, INC., a Wisconsin  
Corporation, dba NUNN BUSH,

Defendant.

CASE NO. 08CV00480-L-RBB

**DEFENDANT WEYCO GROUP,  
INC.'S *EX PARTE* APPLICATION  
TO EXCUSE THE PERSONAL  
APPEARANCE OF OUT-OF-STATE  
PARTY REPRESENTATIVE AT  
THE EARLY NEUTRAL  
EVALUATION**

Defendant Weyco Group, Inc. ("Weyco") respectfully submits this *ex parte* application seeking an order to excuse the personal appearance of a Weyco representative at the Early Neutral Evaluation Conference (the "ENEC").

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I.

**THERE IS “GOOD CAUSE” TO GRANT THIS APPLICATION**

Local Rule 16.1(c)(1) states that “counsel and the parties shall appear” at the ENEC. The Court may excuse attendance if there is a showing of “good cause.” Local Rule 16.1(c)(1)(a). There is “good cause” to excuse the personal appearance of a Weyco representative.

Weyco is a Wisconsin corporation with its principal place of business in Glendale, Wisconsin. It has no representatives in California who are in the position to negotiate a settlement and enter into a binding settlement, as required by the Local Rule. Accordingly, to comply with the Local Rule and the Court’s order regarding the ENEC, Weyco would have to incur the cost of flying a qualified representative from Wisconsin to California along with the attendant loss of that representative’s time.

The small amount in dispute in the instant case does not justify the costs associated with sending a representative to California. Specifically, the maximum amount in dispute is less than \$20,000. That is, even if Plaintiff prevails, it will recover less than \$20,000.<sup>1</sup> Weyco is already bearing the cost associated with an out-of-state litigation that it deems baseless. It should not have to bear additional costs.

The absence of a Weyco representative will not impact Weyco’s willingness or ability to participate in the ENEC. Weyco will have a representative available telephonically with full authority to negotiate and enter into a settlement. Weyco will also be represented at the ENEC by its lawyer, who will be intimately familiar with the facts of this case and will work, in good faith, with the Court and Plaintiff toward reaching a resolution.

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<sup>1</sup> Plaintiff may claim that the amount in issue is higher since it asserts a claim for counterfeiting. However, such a claim is meritless, potentially even frivolous, under any interpretation of the actual facts.

II.

**CONCLUSION**

In light of the foregoing, Weyco respectfully requests that the Court grant this application.

Dated: June 20, 2008

Respectively submitted,

**DOLL AMIR & ELEY, LLP**

**BOYLE FREDRICKSON, .S.C.**

By: s/ Michael M. Amir.

MICHAEL M. AMIR

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1888 Century Park East, Suite 1106, Los Angeles, California 90067.

On June 20, 2008, I served the foregoing document(s) described as: **DEFENDANT WEYCO GROUP, INC.'S EX PARTE APPLICATION TO EXCUSE THE PERSONAL APPEARANCE OF OUT-OF-STATE PARTY REPRESENTATIVE AT THE EARLY NEUTRAL EVALUATION** on the parties in this action by serving:

Gregory L. Weeks, Esq.  
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☐ **By Envelope:** by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as above and delivering such envelopes:

☐ **By Personal Service:** I delivered such envelope by hand to the offices of the addressee(s).

☐ **By Facsimile Transmission:** On June 20, 2008, I caused the above-named document to be transmitted by facsimile transmission to the offices of the addressee(s) at the facsimile number(s) so indicated above. The transmission was reported as complete and without error.

☐ **By Electronic Mail:** I scanned and submitted an electronic versions of the document via electronic mail to the attached Service List and confirmed receipt of the e-mail.

☒ **By Electronic Filing:** Based upon my training and experience with electronic filing in the federal courts, it is my understanding that a copy of this Document, upon its submission to the Court, will be electronically served on the addressees.

Executed on June 20, 2008 at Los Angeles, California.

☐ **STATE** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ **FEDERAL** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

s/ Susan Reimers  
Susan Reimers